

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ORIX CAPITAL MARKETS, LLC,)	
)	
Plaintiff,)	
)	No. 08 C 1492
v.)	Judge Bucklo
)	Magistrate Judge Valdez
COMMERCIAL VENTURES, INC.,)	
)	
Defendant.)	
)	

MOTION TO VACATE DISMISSAL FOR WANT OF PROSECUTION

NOW COMES the Plaintiff, ORIX CAPITAL MARKETS, LLC ("*Orix*"), by and through its attorneys, Chapman and Cutler LLP, and, pursuant to Federal Rule of Civil Procedure 60(b), respectfully submits its Motion to Vacate this Court's May 2, 2008 Order dismissing the matter for want of prosecution. In support of its Motion, Orix states as follows:

1. Orix filed its Complaint against Defendant Commercial Ventures, Inc. ("*CVI*") on March 12, 2008.
2. Counsel for CVI contacted counsel for Orix on or about April 7, 2008. Thereafter, through counsel, Orix agreed that CVI could have until May 5, 2008 to answer or otherwise plead to the Complaint.
3. Thereafter, counsel for Orix was contacted by counsel for CVI on or about May 1, 2008, and requested a further extension – until May 12, 2008 – to answer or otherwise plead to the Complaint. On May 2, 2008, through counsel, Orix consented to the further extension.
4. It was after this communication between counsel that Orix became aware that this Court's initial status date had passed. Orix's failure to appear was simply the result of mistake, and an inadvertent and excusable neglect, and thus should be excused under Rule 60(b).

5. Counsel for the parties have been in communication, and Orix is ready and able to prosecute this matter. Further, as this case is newly filed, no party will be prejudiced by the granting of this Motion.

WHEREFORE, Plaintiff Orix Capital Markets, LLC prays that this Court issue and order vacating its May 2, 2008 Order dismissing the matter for want of prosecution, and for such other and further relief this Court deems just and proper.

ORIX CAPITAL MARKETS, LLC

By /s/ David T.B. Audley
One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that Plaintiff's Motion to Vacate Dismissal for Want of Prosecution was filed electronically on May 2, 2008. Parties and interested persons may access this filing through the Court's system.

/s/ David T.B. Audley
David T.B. Audley